

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EDNY: 04-CV-688

Rosario
v.
USA

USCA: 12-2745
JUDGE: Ross

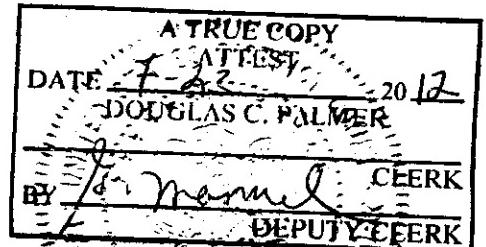
CLERK'S CERTIFICATE

I, Douglas C. Palmer, Clerk of the United States District Court for the Eastern District of New York, do hereby certify that this **First Supplemental Record** constitutes the record on appeal.

Douglas C. Palmer, Clerk

By: J. Manuel
Appeals Clerk
(718) 613-2310

Dated: July 23, 2012
Brooklyn, New York



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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USA

USDC #: 04-CV-688
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FIRST SUPPLEMENTAL RECORD ON APPEAL

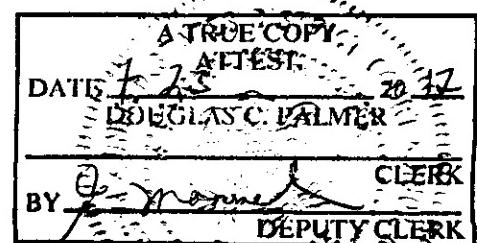
Index Prepared By: GERMAINE MANUEL

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The document numbers circled on the following pages with the original papers, constitute part of this record on appeal. The document numbers followed by an (*) are missing. The other part of this record on appeal consists of electronically filed documents.

Date: Certified and transmitted Record on Appeal to U.S. Court of Appeals, re: [26] Notice of Appeal. The following documents were sent: A certified Clerk's certificate with a certified docket sheet, four copies of the index, and unscanned documents as requested and as sent by Archives. Acknowledgment requested.



MJSELECT

**U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:04-cv-00688-ARR
Internal Use Only**

Rosario v. United States of America

Assigned to: Judge Allyne R. Ross

related Case: 1:12-cv-03432-ARR

Cause: 28:2255 Motion to Vacate / Correct Illegal Sentence

Date Filed: 02/19/2004

Date Terminated: 03/09/2006

Jury Demand: None

Nature of Suit: 510 Prisoner: Vacate

Sentence

Jurisdiction: U.S. Government Defendant

Plaintiff

Amaury Rosario

represented by **Gino Josh Singer**

Gino Josh Singer, Esq.

299 Broadway

Suite 1405

New York, NY 10007

212-227-6655

Fax: 212-732-6972

Email: law299rico@aol.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

V.

Defendant

United States of America

represented by **Kelly T. Currie**

United States Attorneys Office

Eastern District of New York

271 Cadman Plaza East

Brooklyn, NY 11201-1820

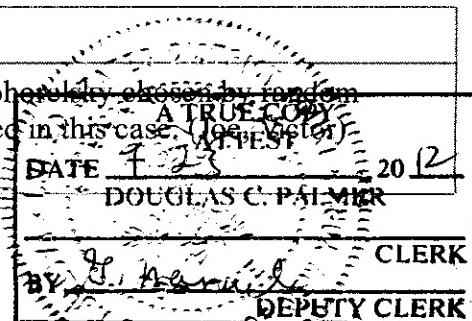
(718)254-6205

Fax: 718-254-6320

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/19/2004		(Court only) ***Magistrate Judge Viktor V. Poehlovsky chosen by random selection to handle matters that may be referred in this case (See: Victor V. Poehlovsky) (Entered: 02/25/2004)



02/19/2004	<u>1</u>	MOTION to Vacate, Set Aside or Correct Sentence (2255), filed by Amaury Rosario. (Attachments: # <u>1</u> Civil Cover Sheet)(Joe, Victor) (Entered: 03/01/2004)
02/19/2004	<u>2</u>	DISCLOSURE of Interested Parties by Amaury Rosario. (Attachments: # <u>1</u> Civil Cover Sheet)(Joe, Victor) (Entered: 03/01/2004)
03/10/2004	<u>3</u>	ORDER TO SHOW CAUSE: The US Atty for the EDNY shall show cause why said motion pursuant to 28 U.S.C. sec. 2255 should not be granted. W/in 20 days of receipt of this order, the US Atty for the EDNY shall serve a copy of his return upon the petitioner herein. Petitioner w/in 20 days of receipt of a copy of the return of the US Atty, shall file a reply, if any. (Signed by Judge Allyne R. Ross on 3/2/2004) *C/M Inter-Off Svc upon Sam Noel, Paralegal at the US Atty's Office. (Latka-Mucha, Wieslawa) (Entered: 03/10/2004)
03/30/2004	<u>4</u>	Letter dated 3/30/04 from AUSA Kelly T. Currie to USDJ Ross requesting an enlargement of time to respond to Amaury Rosario's petition for a writ of habeas corpus. (Nieves, Adrian) (Entered: 03/31/2004)
04/01/2004	<u>5</u>	Letter dated 3/30/04 from AUSA Kelly T. Currie to USDJ Ross requesting an enlargement of time to respond to Amaury Rosario's petition for a writ of habeas corpus. (Nieves, Adrian) (Entered: 04/01/2004)
04/01/2004		ENDORSED ORDER: Application granted. So Ordered. Re: 5 letter. Signed by Judge Allyne R. Ross on 3/30/04. (Nieves, Adrian) (Entered: 04/01/2004)
06/17/2004	<u>6</u>	Letter from AUSA Kelly T. Currie, to Judge Allyne R. Ross requesting an extension of time, until 9/30/04, for the government to answer the petition in this action. (Johnson, Tanya) (Entered: 06/22/2004)
06/17/2004		ORDER on doc #6, granting the government's request for an extension of time until 9/30/04 to file a response to the petition in this action. (Signed by Judge Allyne R. Ross on 6/16/04) (Johnson, Tanya) (Entered: 06/22/2004)
09/16/2004	<u>7</u>	Letter from AUSA Kelly T. Currie to Gino Josh Singer, Esq. Regarding unsealing files in 98 CR 754. (Currie, Kelly) (Entered: 09/16/2004)
09/27/2004	<u>8</u>	Letter from AUSA Kelly T. Currie to The Honorable Allyne R. Ross Regarding Requesting enlargement of time to file response to petition. (Currie, Kelly) (Entered: 09/27/2004)
09/29/2004		(Court only) ***Attorney Kelly T. Currie for United States of America added. (Latka-Mucha, Wieslawa) (Entered: 09/29/2004)
09/29/2004		ORDER endorsed on doc.# <u>8</u> : Application granted. So Ordered. (Signed by Judge Allyne R. Ross on 9/27/2004) C/M by Chambers. *Respondent's answer due 11/30/2004. (Latka-Mucha, Wieslawa) (Entered: 09/29/2004)
11/23/2004	<u>9</u>	Letter from AUSA Kelly T. Currie to Hon. Allyne R. Ross Regarding Application to enlarge time to respond to petitioner's motion under Section 2255. (Currie, Kelly) (Entered: 11/23/2004)
11/24/2004		ORDER endorsed on doc.# <u>9</u> : Application granted. Petitioner's reply, if any, shall be served and filed by February 18, 2004. So Ordered. (Signed by Judge

		Allyne R. Ross on 11/23/2004) C/M by Chambers. (Latka-Mucha, Wieslawa) (Entered: 11/24/2004)
01/30/2005	<u>10</u>	Letter from AUSA Kelly T. Currie to The Honorable Allyne R. Ross Regarding Request for enlargement of time to file government's response. (Currie, Kelly) (Entered: 01/30/2005)
02/03/2005		ORDER endorsed on doc.# <u>10</u> : Application granted. Petitioner's reply, if any, shall be served and filed by April 18, 2005. So Ordered. (Signed by Judge Allyne R. Ross on 1/31/2005) C/M by Chambers. *The Government's response to 2255 Petition due 3/30/2005. (Latka-Mucha, Wieslawa) (Entered: 02/03/2005)
02/07/2005	<u>11</u>	ORDER Endorsed on letter from Amaury Rosario dated 1/27/05 to USDJ Ross, regarding 2254 petition.:Ordered that copies of this document be sent to the AUSA and defense counsel and that petitioner be cc'ed. c/m. Signed by Judge Allyne R. Ross on 2/24/05. (Williams-Jackson, Sandy) (Entered: 02/28/2005)
03/29/2005	<u>12</u>	Letter from AUSA Kelly T. Currie to Hon. Allyne R. Ross Regarding Request for enlargement of time to file government's response. (Currie, Kelly) (Entered: 03/29/2005)
04/04/2005		ORDER endorsed on doc.# <u>12</u> : Granted. Reply, if any, to be served and filed by June 6, 2005. So Ordered. (Signed by Judge Allyne R. Ross on 3/30/2005) C/M (Latka-Mucha, Wieslawa) (Entered: 04/04/2005)
04/13/2005	<u>13</u>	Letter dated 4/6/05 from Malvina Nathanson,Esq. to Judge Ross, regarding 2255 motion. (Williams-Jackson, Sandy) (Entered: 04/13/2005)
05/11/2005	<u>14</u>	Letter from Gino Josh Singer to Honorable Allyne R. Ross Regarding request for extension of the scheduling for filing. (Singer, Gino) (Entered: 05/11/2005)
06/22/2005	<u>15</u>	ORDER: application granted. The government's response is due by 8/16/2005, and petitioner's reply is due by 9/6/2005. Ordered by Judge Allyne R. Ross, undated. (Endorsed on letter dated 5/10/2005 from Gino J. Singer to USDJ Ross)(Barrett, C.) (Entered: 06/22/2005)
08/17/2005	<u>16</u>	PLEASE DISREGARD THIS FILING. THE PDF IS INCOMPLETE. CORRECTED FILING TO FOLLOW. MEMORANDUM in Opposition re <u>1</u> Motion to Vacate/Set Aside/Correct Sentence (2255) by United States of America. (Currie, Kelly) Modified on 8/17/2005 (Lee, Tiffeny). (Entered: 08/17/2005)
08/17/2005	<u>17</u>	MEMORANDUM in Opposition re <u>1</u> Motion to Vacate/Set Aside/Correct Sentence (2255) by United States of America. (Currie, Kelly) (Entered: 08/17/2005)
08/23/2005	<u>18</u>	Letter from AUSA Kelly T. Currie to The Honorable Allyne R. Ross Regarding enclosing courtesy copy of Government's Memorandum of Law and Exhibits in Opposition to the Section 2255 petition. (Currie, Kelly) (Entered: 08/23/2005)
08/23/2005	<u>19</u>	Letter from AUSA Kelly T. Currie to The Honorable Allyne R. Ross Regarding submission supplementing government's Memorandum of Law in Opposition to Section 2255 petition. (Attachments: # <u>1</u> Exhibit Exhibit Y, 4/28/99 Letter of Anthony Ricco, Esq. to Hon. Allyne R. Ross)(Currie, Kelly) (Entered:

		08/23/2005)
10/03/2005	<u>20</u>	ORDER: Granted. (Endorsed on letter from Gino Singer,Esq. requesting an extension of time to file a response to the government's reply to the petition). c/m by chambers. Ordered by Judge Allyne R. Ross on 9/29/05. (Williams-Jackson, Sandy) (Entered: 10/03/2005)
12/19/2005	<u>21</u>	ORDER: Application for extension is granted. No further extensions will be granted. (Endorsed on letter from Gino Singer,Esq. requesting an extension of time within to respond to the government's reply petition). Ordered by Judge Allyne R. Ross on 12/15/05. (Williams-Jackson, Sandy) (Entered: 12/19/2005)
02/02/2006	<u>22</u>	MEMORANDUM of LAW Submitted in Support of Amaury Rosario's Petition for the Issuance of a Writ of Habeas Corpus. (Williams-Jackson, Sandy) (Entered: 02/02/2006)
02/02/2006	<u>23</u>	AFFIRMATION with Exhibit A attached by Gino Josh Singer. (Williams-Jackson, Sandy). (Entered: 02/02/2006)
03/06/2006	<u>24</u>	OPINION AND ORDER: The petition for a writ of habeas corpus is denied. Fwd for jdmt. Ordered by Judge Allyne R. Ross on 3/6/06. (Williams-Jackson, Sandy) . (Entered: 03/06/2006)
03/09/2006	<u>25</u>	CLERK'S JUDGMENT: ORDERED and ADJUDGED that petitioner take nothing of the respondent; that the petition for a writ of habeas corpus is denied; and that no Certificate of Appealability is granted with respect to any of the petitioner's claims. Ordered by Clerk of Court on 3/8/06. (Williams-Jackson, Sandy) (Entered: 03/09/2006)
05/05/2006	<u>26</u>	NOTICE OF APPEAL as to <u>24</u> Memorandum & Opinion, <u>25</u> Clerk's Judgment, by Amaury Rosario. Filing fee \$ 455. receipt # 326640. Certificate of Appealability was denied. Please Note: This NOA was originally filed on 5/5/06 & returned to counsel of record for lack of funds from the Financial dept. The fee was paid today in person by counsel. The financial dept advised to give any appeal to the appeal dept to handle payment. (Gonzalez, Mary) (Entered: 06/20/2006)
06/20/2006		Electronic Index to Record on Appeal sent to US Court of Appeals re <u>7</u> Letter, <u>26</u> Notice of Appeal,, <u>9</u> Letter, <u>14</u> Letter, <u>15</u> Order,, <u>18</u> Letter, <u>21</u> Order,, <u>24</u> Memorandum & Opinion, <u>12</u> Letter, <u>19</u> Letter,, <u>22</u> Memorandum in Support, <u>3</u> Order to Show Cause,,, <u>10</u> Letter, <u>20</u> Order, <u>1</u> Motion to Vacate/Set Aside/Correct Sentence (2255), <u>25</u> Clerk's Judgment,, <u>8</u> Letter, <u>23</u> Affidavit, <u>16</u> Memorandum in Opposition, <u>17</u> Memorandum in Opposition, <u>2</u> Disclosure of Interested Parties For docket entries without a hyperlink, contact the court and we'll arrange for the document(s) to be made available to you. (Gonzalez, Mary) (Entered: 06/20/2006)
01/05/2010	<u>27</u>	MANDATE of USCA as to <u>26</u> Notice of Appeal, filed by Amaury Rosario. Petitioner's request for an Order authorizing the USDC for the EDNY to consider a second or successive 28 USC 2255 motion is denied because the Petitioner has not satisfied the criteria set forth in 28 USC 2255(h). Issued as Mandate: 12/22/09. USCA# 09-4859-op. (McGee, Mary Ann) (Entered:

01/06/2010)